

STATE OF IOWA
PROPERTY ASSESSMENT APPEAL BOARD

Notable, LLC,
Appellant,

v.

Boone County Board of Review,
Appellee.

ORDER

Docket Nos. 13-08-0026 through 13-08-0034

On October 29, 2013, the above-captioned appeals came on for hearing before the Iowa Property Assessment Appeal Board. The hearing was conducted under Iowa Code section 441.37A(2)(a-b) and Iowa Administrative Code rules 701-71.21(1) et al. Appellant Notable, LLC was represented by April Jensen, farm manager. County Attorney Daniel Kolacia represented the Boone County Board of Review. Both parties submitted evidence in support of their position. The Appeal Board, having reviewed the entire record, heard the testimony, and being fully advised, finds:

Findings of Fact

Notable, LLC, the owner of property located in Yell Township, Boone County, Iowa, appeals from the Boone County Board of Review's decisions regarding Notable's 2013 property assessments. The appeals include nine agriculturally classified parcels totaling 276.06 acres. Two of the parcels are improved. Parcel 08-8427-27-42-00-001 (Docket 13-08-0030) has a 1638 square-foot, steel utility building and a 1740 square-foot, pole barn. The total 2013 assessed improvement value for this parcel is \$2656. Parcel 08-8427-27-43-00-001 (Docket 13-08- 0031) is improved with a one-story, single-family residence built in 1958. The 2013 assessed dwelling value is \$148,033. This parcel is also improved with a 960 square-foot pole barn, and its 2013 improvement value is \$567. Notable claimed

there was an error in the agriculture land value; it appears to have acquiesced to the value of the improvements and the Appeal Board will not address those values in this order.

Notable filed a separate Board of Review protest for each of the nine parcels. Each protest claimed there is an error in the assessment under section 441.37(1)(a)(4). Notable alleges various errors depending on the parcel protested, including: No timber or hill slope adjustment; Income to tax ratio; Poor production vs CSR; Construction Damage; and No practical use.

The Board of Review granted the protests, in part, on Parcel Numbers 08-8427-27-13-00-003, 08-8427-27-42-00-001, and 08-8427-27-43-00-001, and denied the remaining protests. Notable then appealed to this Board on the same ground. The following chart shows the parcels appealed and their respective 2013 land value assessments as modified by the Board of Review.

Docket Number	Parcel Number	Total Acres	2013 BOR Land Assessment
13-08-0026	08-8427-34-11-00-001	38	\$26,590
13-08-0027	08-8427-27-13-00-003	15	\$20,758
13-08-0028	08-8427-27-14-00-001	4.56	\$2,583
13-08-0029	08-8427-27-31-00-001	31.92	\$67,689
13-08-0030	08-8427-27-42-00-001	38	\$74,379
13-08-0031	08-8427-27-43-00-001	37.25	\$56,278
13-08-0032	08-8427-27-44-00-002	33.33	\$14,229
13-08-0033	08-8427-34-12-00-001	38	\$23,725
13-08-0034	08-8427-34-13-00-001	40	\$27,930
Total		276.06	\$314,161

April Jensen, Notable's farm manager, testified on its behalf. Jensen asserts two factors she does not believe have been adequately considered in the valuation of her properties. First, she believes farm management should be considered. She explained that she inherited the properties and the condition of the properties is "largely due to tenant mismanagement" because her parents had gotten older and did not oversee the properties as they originally did. Second, she does not believe the slope and condition of the ground has adequately been considered.

Regarding the management concerns, Jensen reports her prior tenant did not put anything “back into the land” to keep the productivity to where it was. Therefore, she now has to put money back into it to bring the productivity back up. Ultimately, she believes any deterioration of the land should be considered similarly with the depreciation typically applied to improvements.

Regarding her slope/condition concerns, Jensen believes the photographs (Exhibit 1) demonstrate the slope along the south end of her property by the Des Moines River. She asserts the photos indicate a 90-degree slope. This factor, coupled with her opinion that the prior tenant let it become overgrown, greatly limits the number of acres she has to produce an income. For these reasons, she believes her property is over-valued.

Jensen has obtained a new tenant. She has verbal assurances from the new tenant that he will maintain the properties, but does not have a written lease agreement. She explained her rationale for not having a written agreement is that she is trying to be “congenial.” Further, she has told them that she is “doing this on a yearly basis” and if she does not see the progress she wants, she will not renew the lease. She believes she cannot upset the tenants because she needs them.

Jensen noted the Union Pacific Railroad has a bridge that runs through the northern edge of her property. Due to major construction of that bridge, she was cut-off from her access to the northern part of her property where her water source for cattle is located. She stated she now has to haul water to the pasture on the west side of Juneberry Road. She estimates 40-45 acres no longer have a water source. She testified that she could not rent out that pasture now, unless the tenant is willing to haul water. Because of this, Jensen asserts her income is reduced. Further, she testified the area north of the bridge has become so overgrown that she will have to spend money to clear it in order to get it back to being an income producing parcel, assuming she ever gets access to it from the railroad. She asserts that because value is “based on productivity and earning capacity” the current lack of productivity should

be taken into consideration. She does not consider the parcels that she no longer has immediate access to as “productive,” and does not believe this has not been considered in her assessments.

Ultimately, we find the access issue is a legal dispute between Notable and Union Pacific Railroad and not properly before this Board. Although we understand Jensen’s frustrations, it is not a factor considered in the valuing of agricultural land in the Iowa Code, which considers its productivity based on corn suitability ratings (CSR) and net earning capacity.

Jensen also testified regarding her 2012 assessment protest and conversations she had with the prior assessor at that time. Jensen provided a detailed explanation of that process. Ultimately, however, the prior appeals have no bearing on this appeal.

When questioned, Jensen testified that approximately 100 acres are not being used because of lack of water source, condition of the property, and access issues. However, Jensen also testified the income she has received from pasture rent and row crop rent has increased since she took over management of the property.

Jensen does not know what the correct value of the properties should be but reasserted she inherited problems she believes affect the productivity of the properties.

County Assessor Paul Overton testified for the Board of Review. He explained the process of valuing agricultural land, and he explained the process employed by the previous assessor, as he understood it. Because Overton ultimately changed the previous methodology, we do not find it necessary to dwell on the explanations of those processes. Rather, we agree with Overton that the former methodology was incorrect.

Overton contracted with a private company to provide a layer of tillable and non-tillable to all parcels in Boone County, as part of an upcoming change in the law, which will allow non-tillable acres to be valued at a lower rate than simply productivity, but rather based on use. The parcels at issue were treated in the same manner as all other agricultural parcels in Boone County. Moreover, because

Jensen came in for a review, Overton stated a staff member worked with her and as a result, some of the non-tillable areas were increased based in part on some of the issues she addressed in her testimony.

Jensen questioned why agricultural land is valued on a countywide basis when that is not done with residential properties. Overton explained agricultural land is not valued at fair market value, which is how all other classes of properties are valued. Rather, it is valued on statistical information on a countywide basis using a formula of productivity and net earning capacity. We find Overton's explanation to be a correct statement of Iowa law. Finally, Overton's testimony convinces the Board that the assessment methodology employed by his office is consistent with Iowa law and corrects previous practices that resulted in the inequitable assessment of agricultural property in the county.

The Appeal Board finds there is insufficient evidence to support the claim that there are errors on any of the subject parcels' assessments.

Conclusions of Law

The Appeal Board applied the following law.

The Appeal Board has jurisdiction of this matter under Iowa Code sections 421.1A and 441.37A (2011). This Board is an agency and the provisions of the Administrative Procedure Act apply to it. Iowa Code § 17A.2(1). This appeal is a contested case. § 441.37A(1)(b). The Appeal Board determines anew all questions arising before the Board of Review related to the liability of the property to assessment or the assessed amount. § 441.37A(3)(a). The Appeal Board considers only those grounds presented to or considered by the Board of Review. § 441.37A(1)(b). But new or additional evidence may be introduced. *Id.* The Appeal Board considers the record as a whole and all of the evidence regardless of who introduced it. § 441.37A(3)(a); *see also Hy-vee, Inc. v. Employment Appeal Bd.*, 710 N.W.2d 1, 3 (Iowa 2005). There is no presumption that the assessed value is correct. § 441.37A(3)(a).

The plain language of section 441.37(1)(a)(4), on which Notable rests its claim, allows a protest on the ground “[t]hat there is an error in the assessment.” § 441.37(1)(a)(4). Section 441.37(1)(a)(4) is not limited solely to clerical or mathematical errors. Notable generally asserts that the assessment of its agricultural properties include errors related to a determination of the property’s productivity. In particular, Notable argues the property’s productivity is limited by its slope and terrain, access to water for pastureland, damage resulting from construction of an adjacent railroad, and the actions of the prior tenant. Ultimately, Notable believes this property’s productivity is not accurately reflected in the Corn Suitability Ratings (CSR) and the Assessor should make additional adjustments for the aforementioned issues.

Iowa Code section 441.21(1)(e) provides that agricultural real estate be assessed at its actual value by giving exclusive consideration to its productivity and net earning capacity. In determining the productivity and net earning capacity of agricultural real estate, the assessor is required to use available data from Iowa State University, the Iowa crop and livestock reporting service, the Department of Revenue, the *Iowa Real Property Appraisal Manual*, and to consider the results of a modern soil survey, if completed. Iowa Code § 441.21(1)(f); Iowa Administrative Code r. 701-71.3. The assessor is then required to determine the actual value of agricultural property in the jurisdiction and spread the value across the agriculturally classified parcels in the jurisdiction. r. 701-71.3(1). Notable’s parcels all carry an agricultural classification, which requires that they are valued using the set formula. *See* r. 701-71.3, 701-71.12.

First, the CSR already takes into account a parcel’s slope and it assumes adequate management of the property. *Iowa Real Property Appraisal Manual* 2-24; Don Hofstrand, *Understand Iowa Corn Suitability Ratings*, AG DECISION MAKER, June 2010, *available at* <https://www.extension.iastate.edu/agdm/wholefarm/pdf/c2-86.pdf> (“This method provides for equalization of assessment on soil productivity, not how well or how poorly one is able to apply

management skills.”). Second, Notable’s other assertions are somewhat contradicted by Jensen’s testimony that the parcels are now generating more revenue after she took over management.

Further, several of Notable’s concerns may be addressed with the full implementation of the amendment to Iowa Administrative Code Rule 701-71.3(1). While Overton testified he essentially applied the methodology of the amended rule for the 2013 assessment, the Department of Revenue continues to issue additional guidance which may allow Overton to refine the assessments of Boone County’s agricultural realty. For instance, the Department’s guidance related to the determination of which areas would be considered cropland and non-cropland may result in adjustment of certain portions of Notable’s property currently deemed tillable. As a result, we hope Notable consults with Overton in this regard for the 2014 assessment.

We also note the pictures Notable provided to this Board and Jensen’s testimony identified areas that have become overgrown with trees. Jensen stated she had looked into the forest reserve program for these areas. Rather than making an additional adjustment for the overgrown areas the Assessor already considers non-tillable, we find the proper solution would be for Notable to apply and enroll qualifying portions of the properties into the forest reserve program under chapter 427C. Once enrolled, these areas would be exempt from taxation. § 427C.1.

Notable also questioned why the Assessor gives no consideration to an agricultural property’s maintenance and upkeep even though the Assessor will consider the condition of residential or commercial property when determining its value. The answer lies in the different legally required methods for assessing agricultural property as compared to residential and commercial property. Residential property and commercial property are assessed at market value. § 441.21(1)(b). Contrary to agricultural property, there is no formula mandated for assessors to follow to arrive at a residential or commercial property’s assessed value. Rather, the assessor must utilize comparable property sales

data, if available, and the Department of Revenue's Real Property Appraisal Manual to arrive at an assessment. *Id.*; § 441.21(1)(h).

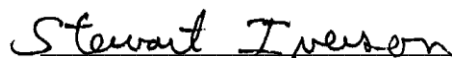
Ultimately, we find Notable, LLC provided insufficient evidence to support its claim that the subject sites have errors in the assessments.

THE APPEAL BOARD ORDERS the January 1, 2013, assessment of Notable, LLC's agriculturally classified parcels located in Yell Township, Boone County, Iowa, are affirmed.

Dated this 13th day of December, 2013.



Karen Oberman, Presiding Officer



Stewart Iverson, Board Chair



Jacqueline Rypma, Board Member

Cc:

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